

SENATE BILL No. 82

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-0.9; IC 31-17-6-1; IC 31-35-3.5.

Synopsis: Rape and termination of parental rights. Allows a parent who is the victim of an act of rape from which a child was conceived to file a petition to terminate the parent-child relationship between the child and the alleged perpetrator of the act of rape. Requires a court to terminate the parent-child relationship if the court finds: (1) by clear and convincing evidence that the alleged perpetrator committed an act of rape against the parent who filed the petition to terminate the parent-child relationship and that the child was conceived as a result of the act of rape; and (2) that terminating the parent-child relationship would be in the best interests of the child. Prohibits a parent who is at least 18 years of age at the time the act of rape occurred from filing a petition more than 180 days after the birth of the child. Prohibits a parent who is less than 18 years of age at the time the act of rape occurred from filing a petition more than 2 years after becoming 18 years of age. (The introduced version of this bill was prepared by the study committee on corrections and the criminal code.)

Effective: July 1, 2016.

Charbonneau

January 5, 2016, read first time and referred to Committee on Judiciary.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 82

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-9-2-0.9 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 0.9. "Act of rape", for purposes of IC 31-35-3.5,**
4 **means an act described in:**

5 (1) **IC 35-42-4-1; or**
6 (2) **IC 35-42-4-3(a).**
7 SECTION 2. IC 31-17-6-1, AS AMENDED BY P.L.133-2008,
8 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2016]: Sec. 1. A court, in a proceeding under IC 31-17-2,
10 IC 31-17-4, this chapter, IC 31-17-7, ~~or~~ IC 31-28-5, **or IC 31-35-3.5,**
11 may appoint a guardian ad litem, a court appointed special advocate,
12 or both, for a child at any time.

13 SECTION 3. IC 31-35-3.5 IS ADDED TO THE INDIANA CODE
14 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2016]:

16 **Chapter 3.5. Termination of Parent-Child Relationship of an**
17 **Individual Who Committed an Act of Rape**



1 **Sec. 1. Proceedings under this chapter are governed by the**
 2 **procedures prescribed by:**

3 **(1) IC 31-32-1, IC 31-32-4 through IC 31-32-10, and**
 4 **IC 31-32-12 through IC 31-32-15;**

5 **(2) IC 31-34; and**

6 **(3) IC 31-37;**

7 **but are distinct from proceedings under IC 31-34 and IC 31-37.**

8 **Sec. 2. The probate court has concurrent original jurisdiction**
 9 **with the juvenile court in proceedings on a petition to terminate a**
 10 **parent-child relationship under this chapter.**

11 **Sec. 3. Subject to subsection (b), if a child was conceived as a**
 12 **result of an act of rape, the parent who is the victim of the act of**
 13 **rape may file a verified petition with the juvenile or probate court**
 14 **to terminate the parent-child relationship between the child and**
 15 **the alleged perpetrator of the act of rape.**

16 **Sec. 4. (a) A parent who:**

17 **(1) is the victim of an act of rape; and**

18 **(2) is at least eighteen (18) years of age at the time the act of**
 19 **rape occurred;**

20 **may not file a petition for termination of the parent-child**
 21 **relationship under this chapter more than one hundred eighty**
 22 **(180) days after the birth of the child.**

23 **(b) A parent who:**

24 **(1) is the victim of an act of rape; and**

25 **(2) is less than eighteen (18) years of age at the time the act of**
 26 **rape occurred;**

27 **may not file a petition for termination of the parent-child**
 28 **relationship under this chapter more than two (2) years after**
 29 **becoming eighteen (18) years of age.**

30 **Sec. 5. The verified petition filed under section 3 of this chapter**
 31 **must:**

32 **(1) be entitled "In the Matter of the Termination of the**
 33 **Parent-Child Relationship of _____, a child, and**
 34 **_____, the parent"; and**

35 **(2) allege:**

36 **(A) that the alleged perpetrator committed an act of rape**
 37 **against the parent who filed the petition to terminate the**
 38 **parent-child relationship;**

39 **(B) that the child was conceived as a result of the act of**
 40 **rape described in clause (A); and**

41 **(C) that the termination of the parent-child relationship**
 42 **between the alleged perpetrator and the child is in the best**



- 1 interests of the child.
- 2 **Sec. 6. A showing by clear and convincing evidence that:**
- 3 (1) the alleged perpetrator committed an act of rape against
- 4 a parent described in section 5(2)(A) of this chapter; and
- 5 (2) the child was conceived as a result of the act of rape;
- 6 is prima facie evidence that termination of the parent-child
- 7 relationship between the alleged perpetrator and the child is in the
- 8 best interests of the child.
- 9 **Sec. 7. (a) The court shall terminate the parent-child**
- 10 **relationship if the court finds:**
- 11 (1) by clear and convincing evidence that the allegations in a
- 12 petition described in section 5(2)(A) and 5(2)(B) of this
- 13 chapter are true; and
- 14 (2) that termination of the parent-child relationship is in the
- 15 best interests of the child.
- 16 **(b) If the court does not find:**
- 17 (1) by clear and convincing evidence that the allegations in a
- 18 petition described in section 5(2)(A) and 5(2)(B) of this
- 19 chapter are true; or
- 20 (2) that termination of the parent-child relationship is in the
- 21 best interests of the child;
- 22 the court shall deny the petition.
- 23 **Sec. 8. The court may appoint:**
- 24 (1) a guardian ad litem;
- 25 (2) a court appointed special advocate; or
- 26 (3) both a guardian ad litem and a court appointed special
- 27 advocate;
- 28 for a child in a proceeding under this chapter, as provided in
- 29 IC 31-17-6-1.
- 30 **Sec. 9. The termination of the parent-child relationship under**
- 31 **this chapter does not extinguish the parent's obligation to pay child**
- 32 **support.**

